

Article 27.

Municipal Elections.

Part 1. Municipal Election Procedure.

§ 163A-1585. Time of municipal primaries and elections.

(a) Primaries and elections for offices filled by election of the people in cities, towns, incorporated villages, and special districts shall be held in 1973 and every two or four years thereafter as provided by municipal charter on the following days:

- (1) If the election is nonpartisan and decided by simple plurality, the election shall be held on Tuesday after the first Monday in November.
- (2) If the election is partisan, the election shall be held on Tuesday after the first Monday in November, the first primary shall be held on the second Tuesday after Labor Day, and the second primary, if required, shall be held on the fourth Tuesday before the election.
- (3) If the election is nonpartisan and the nonpartisan primary method of election is used, the election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.
- (4) If the election is nonpartisan and the election and runoff election method of election is used, the election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November, and the runoff election, if required, shall be held on Tuesday after the first Monday in November.

(b) Officers of sanitary districts elected in 1970 shall hold office until the first Monday in December, 1973, notwithstanding G.S. 130-126. Beginning in 1973, sanitary district elections shall be held at the times provided in this section or in G.S. 130A-50(b1). (1971, c. 835, s. 1; 1973, c. 1115; 1987, c. 22, s. 2; 2006-192, s. 3; 2011-141, s. 1(a); 2017-6, s. 3.)

§ 163A-1586. Residency defined for voting in municipal elections.

The rules for determining residency within a municipality shall be the same as prescribed in G.S. 163A-842 for determining county residency. No person shall be entitled to reside in more than one city or town at the same time. (1971, c. 835, s. 1; 2017-6, s. 3.)

§ 163A-1587. Right to participate or vote in party primary.

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless that person complies with all of the following:

- (1) Is a registered voter.
- (2) Has declared and has had recorded on the registration book or record the fact that the voter affiliates with the political party in whose primary the voter proposes to vote or participate.
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163A-989 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary election, shall be entitled to register while the registration books are open during the regular registration period

prior to the primary and then to vote in the primary after being registered, provided however, under full-time and permanent registration, such an individual may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163A-865(d) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections. (1971, c. 835, s. 1; 1983, c. 331, s. 5; 1987, c. 408, s. 5; c. 457, s. 2; 1991 (Reg. Sess., 1992), c. 1032, s. 8; 1993 (Reg. Sess., 1994), c. 762, s. 62; 2008-150, s. 5(c); 2009-541, s. 24; 2013-381, s. 16.6; 2017-6, s. 3.)

§ 163A-1588. Voting in nonpartisan primary.

Any person who will become qualified by age to register and vote in the general election for which a nonpartisan primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such a person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163A-865(d) prior to the primary. (2009-541, s. 25; 2013-381, s. 16.7; 2017-6, s. 3.)

§ 163A-1589. Mandatory administration by county boards of elections.

The registration of voters and the conduct of all elections in municipalities and special districts shall be under the authority of the county board of elections. Any contested election or allegations of irregularities shall be made to the county board of elections and appeals from such rulings may be made to the State Board under existing statutory provisions and rules or regulations adopted by the State Board.

Each municipality and special district shall reimburse the county board of elections for the actual cost involved in the administration required under this section. (1971, c. 835, s. 1; 1973, c. 793, s. 84; 2011-31, s. 4; 2017-6, s. 3.)

§ 163A-1590. Special district elections conducted by county.

All elections held in and for a sanitary district, fire district or other special district, including school administrative units, shall be conducted by the county board of elections notwithstanding the fact that the taxes of the special district may be levied by a city. (1971, c. 835, s. 1; 2017-6, s. 3.)

§ 163A-1591. Conduct of municipal and special district elections; application of this Subchapter.

To the extent that the laws, rules and procedures applicable to the conduct of primary, general and special elections by county boards of elections under Parts 1, 2, and 4 of Article 16, Parts 1, 2, and 3 of Article 17, Parts 1 and 2 of Article 18, Parts 1 and 8 of Article 20, and Article 22 of this Chapter are not inconsistent with provisions of this Part, those laws, rules and procedures shall apply to municipal and special district elections and their conduct by the board of elections conducting those elections. The State Board shall have the same authority over all such elections as it has over county and State elections under those Parts and Articles. (1971, c. 835, s. 1; 1973, c. 793, s. 85; 1993 (Reg. Sess., 1994), c. 762, s. 64; 2011-31, s. 6; 2017-6, s. 3.)

§ 163A-1592. Special elections; procedure for calling.

(a) Any county, municipality, or any special district shall have authority to call special elections as permitted by law. Prior to calling a special election, the governing body of the county, municipality, or special district shall adopt a resolution specifying the details of the election, and forthwith deliver the resolution to the local board of elections. The resolution shall call on the local board of elections to conduct the election described in the resolution and shall state the date on which the special election is to be conducted. In setting the date, counties, municipalities, and special districts are encouraged to set a date that will result in the highest possible voter turnout. However, the special election may be held only as follows:

- (1) At the same time as any other State or county general election.
- (2) At the same time as the primary election in any even-numbered year.
- (3) At the same time as any other election requiring all the precincts in the county to be open.
- (4) At the same time as a municipal general election, if the special election is within the jurisdiction of the municipality only.

(b) Legal notice of the special election shall be published no less than 45 days prior to the special election. The local board of elections shall be responsible for publishing the legal notice. The notice shall state the date and time of the special election, the issue to be submitted to the voters, and the precincts in which the election will be held. This subsection shall not apply to bond elections.

(c) The last sentence of subsection (a) of this section shall not apply to any special election related to the public health or safety, including a vacancy in the office of sheriff or a bond referendum for financing of health and sanitation systems, if the governing body adopts a resolution stating the need for the special election at a time different from any other State, county, or municipal general election or the primary in any even-numbered year.

(d) The last sentence of subsection (a) of this section shall not apply to municipal incorporation or recall elections pursuant to local act of the General Assembly.

(e) The last sentence of subsection (a) of this section shall not apply to municipal elections to fill vacancies in office pursuant to local act of the General Assembly where more than six months remain in the term of office, and if less than six months remain in the office, the governing board may fill the vacancy for the remainder of the unexpired term notwithstanding any provision of a local act of the General Assembly.

(f) This section shall not impact the authority of the courts or the State Board to order a new election at a time set by the courts or State Board under this Subchapter. (1971, c. 835, s. 1; 1973, c. 793, s. 86; 1993 (Reg. Sess., 1994), c. 762, s. 65; 2011-31, s. 7; 2013-381, s. 10.1; 2014-111, s. 17.5(a); 2017-6, s. 3.)

§ 163A-1593. Registration for city elections; county and municipal boards of elections.

The registration record of the county board of elections shall be the official registration record for voters to vote in all elections, city, district, county, State or national. (1971, c. 835, s. 1; 1973, c. 793, s. 87; 1981, c. 33, s. 5; 1991 (Reg. Sess., 1992), c. 1032, s. 7; 1993 (Reg. Sess., 1994), c. 762, s. 66; 2011-31, s. 8; 2017-6, s. 3.)

§ 163A-1594. Activating voters for newly annexed or incorporated areas.

(a) Whenever any new city or special district is incorporated or whenever an existing city or district annexes any territory, the city or special district shall cause a map of the corporate or district limits to be prepared from the boundary descriptions in the act, charter or other document

creating the city or district or authorizing or implementing the annexation. The map shall be delivered to the county board of elections conducting the elections for the city or special district. The board of elections shall then activate for city or district elections each voter eligible to vote in the city or district who is registered to vote in the county to the extent that residence addresses shown on the county registration certificates can be identified as within the limits of the city or special district. Each voter whose registration is thus activated for city or special district elections shall be so notified by mail. The cost of preparing the map of the newly incorporated city or special district or of the newly annexed area, and of activating voters eligible to vote therein, shall be paid by the city or special district. In lieu of the procedures set forth in this section, the county board of elections may use either of the methods of registration of voters set out in G.S. 163A-1596 when activating voters pursuant to the incorporation of a new city or election of city officials or both under authority of an act of the General Assembly or when activating voters after an annexation of new territory by a city or special district under Chapter 160A, Article 4A, or other general or local law.

(b) Each voter whose registration is changed by the county or municipal board of elections in any manner pursuant to any annexation or expunction under this subsection shall be so notified by mail.

(c) The State Board shall have authority to adopt regulations for the more detailed administration of this section. (1971, c. 835, s. 1; 1973, c. 793, s. 88; 1977, c. 752, s. 1; 2011-31, s. 9; 2017-6, s. 3.)

§ 163A-1595. Activating voters when charter revised.

Whenever a city has not held the most recent two elections required by its charter or this Subchapter, and the General Assembly amends the charter of that city and provides that the county board of elections shall conduct the elections of that city, voters shall be activated for the elections of that city in accordance with G.S. 163A-1594 or G.S. 163A-1596. In such a case, the county shall prepare the map required by G.S. 163A-1594(a). (1985, c. 350; 2017-6, s. 3.)

§ 163A-1596. Registration in area proposed for incorporation or annexed.

(a) Whenever the General Assembly incorporates a new city and provides in the act of incorporation for a referendum on the question of incorporation or for a special election for town officials or for both, or whenever an existing city or special district annexes new territory under the provisions of Chapter 160A, Article 4A, or other general or local law, the board of elections of the county in which the proposed city is located or in which the newly annexed territory is located shall determine those individuals eligible to vote in the referendum or special election or in the city or special district elections. In determining the eligible voters the board may, in its discretion, use either of the following methods:

METHOD A. – The board of elections shall prepare a list of those registered voters residing within the proposed city or newly annexed territory. The board shall make this list available for public inspection in its office for a two-week period ending on the twenty-fifth day before the day of the referendum or special election, or the next scheduled city or special district election. During this period, any voter resident within the proposed city or newly annexed territory and not included on the list may cause his name to be added to the list. At least one week and no more than two weeks before the day the period of public inspection is to begin, the board shall cause notice of the list's availability to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation

within the county. The notice shall state that the list has been prepared, that only those persons listed may vote in the referendum or special election, that the list will be available for public inspection in the board's office, that any qualified voter not included on the list may cause his name to be added to the list during the two-week period of public inspection, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

METHOD B. – The board of elections shall conduct a special registration of eligible persons desiring to vote in the referendum or special election or in the newly annexed territory. The registration records shall be open for a two-week period (except Sundays) ending on the twenty-fifth day before the day of the referendum or special election or the next scheduled city or special district election. On the two Saturdays during that two- week period, the records shall be located at the voting place for the referendum or special election or the next scheduled city or special district election; on the other days it may, in the discretion of the board, be kept at the voting place, at the office of the board, or at the place of business of a person designated by the board to conduct the special registration. At least one week and no more than two weeks before the day the period of special registration is to begin, the board shall cause notice of the registration to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state the purpose and times of the special registration, the location of the registration records, that only those persons registered in the special registration may vote in the referendum or special election, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

(b) Only those persons registered pursuant to this section may vote in the referendum or special election, provided, however, that in cases where voters are activated under either Method A or B to vote in a city or special district that annexes territory, the city or special district shall permit them to vote in the city or special district's election and shall, as well, permit other voters to vote in such elections who did not register under the provisions of this section if they are otherwise registered, qualified and eligible to vote in the same. (1973, c. 551; 1977, c. 752, s. 2; 1981, c. 33, s. 6; 1989, c. 93, s. 9; 1991 (Reg. Sess., 1992), c. 1032, s. 9; 1993 (Reg. Sess., 1994), c. 762, s. 67; 2017-6, s. 3.)

§ 163A-1597. Payment of cost of elections on question of formation of a new municipality or special district.

Whenever a referendum or election is held on the question of incorporation of a new municipality or the formation of a special district, the cost of the election shall be paid by the new municipality or special district in the event the voters approve of incorporation or creation and the new municipality or special district is established. If the voters disapprove and the new municipality or special district is not established, the cost of the election shall be paid by the county. The cost of the election shall be advanced by the county, which shall be reimbursed within 18 months of the date of election, by the municipality or special district if it is established. (1981, c. 786, s. 1; 2017-6, s. 3.)

§ 163A-1598. Right to challenge; challenge procedure.

(a) The rules governing challenges in municipal elections shall be the same as are now applicable to challenges made in a county election, provided however, any voter who challenges another voter's right to vote in any municipal or special district election must reside in such municipality or special district.

(b) Whenever a challenge is made pursuant to this section, the appropriate board of elections shall process such challenge in accordance with the provisions of Part 3 of Article 17 of this Chapter as such Part is applicable. (1971, c. 835, s. 1; 1973, c. 793, s. 89; 2011-31, s. 10; 2017-6, s. 3.)

§ 163A-1599. Alternative methods of determining the results of municipal elections.

(a) Each city, town, village, and special district in this State shall operate under one of the following alternative methods of nominating candidates for and determining the results of its elections:

- (1) The partisan primary and election method set out in G.S. 163A-1615.
- (2) The nonpartisan primary and election method set out in G.S. 163A-1618.
- (3) The nonpartisan plurality method set out in G.S. 163A-1616.
- (4) The nonpartisan election and runoff election method set out in G.S. 163A-1617.

(b) Each city whose charter provides for partisan municipal elections as of January 1, 1972, shall operate under the partisan primary and election method until such time as its charter is amended to provide for nonpartisan elections. Each city, town, village, and special district whose elections are by charter or general law nonpartisan may select the nonpartisan primary and election method, the nonpartisan plurality method, or the nonpartisan election and runoff election method by resolution of the municipal governing board adopted and filed with the State Board not later than 5:00 P.M. Monday, January 31, 1972, except that a city whose charter provides for a nonpartisan primary as of January 1, 1972, may not select the plurality method unless its charter is so amended. If the municipal governing board does not exercise its option to select another choice before that time, the municipality shall operate under the method specified in the following table:

| | |
|--|------------------------------|
| Cities, towns and villages of less than 5,000 | Plurality |
| Cities, towns and villages of 5,000 or more | Election and Runoff Election |
| Special districts | Plurality |

After January 31, 1972, each city, town and village may change its method of election from one to another of the methods set out in subsection (a) by act of the General Assembly or in the manner provided by law for amendment of its charter. (1971, c. 835, s. 1; 2017-6, s. 3.)

§ 163A-1600: Reserved for future codification purposes.

§ 163A-1601: Reserved for future codification purposes.

§ 163A-1602: Reserved for future codification purposes.

§ 163A-1603: Reserved for future codification purposes.

§ 163A-1604: Reserved for future codification purposes.

§ 163A-1605: Reserved for future codification purposes.

§ 163A-1606: Reserved for future codification purposes.

§ 163A-1607: Reserved for future codification purposes.

§ 163A-1608: Reserved for future codification purposes.

§ 163A-1609: Reserved for future codification purposes.

§ 163A-1610: Reserved for future codification purposes.

§ 163A-1611: Reserved for future codification purposes.

§ 163A-1612: Reserved for future codification purposes.

§ 163A-1613: Reserved for future codification purposes.

§ 163A-1614: Reserved for future codification purposes.

Part 2. Conduct of Municipal Elections.

§ 163A-1615. Partisan primaries and elections.

The nomination of candidates for office in cities, towns, villages, and special districts whose elections are conducted on a partisan basis shall be governed by the provisions of this Subchapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:

- (1) The dates of primary and election shall be as provided in G.S. 163A-1585.
- (2) A candidate seeking party nomination for municipal or district office shall file notice of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the third Friday in July preceding the election, except:
 - a. In the year following a federal decennial census, a candidate seeking party nomination for municipal or district office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file his notice of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and
 - b. In the second year following a federal decennial census, if the election is held then under G.S. 160A-23.1, a candidate seeking party nomination for municipal or district office shall file his notice of candidacy with the board of elections at the same time as notices of

candidacy for county officers are required to be filed under G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978.

No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the county board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for that election unless the notice of candidacy for the first office is withdrawn first.

- (3) The filing fee for municipal and district primaries shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.
- (4) The municipal ballot may not be combined with any other ballot.
- (5) The canvass of the primary and second primary shall be held on the seventh day following the primary or second primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.
- (6) Candidates having the right to demand a second primary shall do so not later than 12:00 noon on the Thursday following the canvass of the first primary. (1971, c. 835, s. 1; 1973, c. 870, s. 1; 1975, c. 370, s. 2; 1983, c. 330, s. 2; 1985, c. 599, ss. 2, 3; 1989 (Reg. Sess., 1990), c. 1012, s. 3; 1995 (Reg. Sess., 1996), c. 553, s. 2; 1999-227, s. 5; 2003-278, s. 10(e), (f); 2006-192, s. 4; 2009-414, s. 2; 2017-6, s. 3.)

§ 163A-1616. Determination of election results in cities using the plurality method.

In conducting nonpartisan elections and using the plurality method, elections shall be determined in accordance with the following rules:

- (1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.
- (2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.
- (3) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall determine the winner by lot. (1971, c. 835, s. 1; 2017-6, s. 3.)

§ 163A-1617. Determination of election results in cities using the election and runoff election method.

(a) Except as otherwise provided in this section, nonpartisan municipal elections in cities using the election and runoff election method shall be determined by a majority of the votes cast. A majority within the meaning of this section shall be determined as follows:

- (1) When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total vote cast for all candidates by two. Any excess of the sum so ascertained shall be a majority, and the candidate who obtains a majority shall be declared elected.
- (2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, the majority shall be ascertained by dividing the total vote cast for all candidates by the number of offices to be filled, and by dividing the result by two. Any excess of the sum so ascertained shall be a majority, and the candidates who obtain a majority shall be declared elected. If more candidates obtain a majority than there are offices to be filled, those having the highest vote (equal to the number of offices to be filled) shall be declared elected.

(b) If no candidate for a single office receives a majority of the votes cast, or if an insufficient number of candidates receives a majority of the votes cast for a group of offices, a runoff election shall be held as herein provided:

- (1) If no candidate for a single office receives a majority of the votes cast, the candidate receiving the highest number of votes shall be declared elected unless the candidate receiving the second highest number of votes requests a runoff election in accordance with subsection (c) of this section. In the runoff election only the names of the two candidates who received the highest and next highest number of votes shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.
- (2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared elected unless some one or all of the candidates equal in number to the positions remaining to be filled and having the second highest number of votes shall request a runoff election in accordance with subsection (c) of this section. In the runoff election to elect candidates for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and demanding a runoff election shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.

(c) The canvass of the first election shall be held on the seventh day after the election. A candidate entitled to a runoff election may do so by filing a written request for a runoff election with the board of elections no later than 12:00 noon on the Thursday after the result of the first election has been officially declared. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

(d) Tie votes; how determined:

- (1) If there is a tie for the highest number of votes in a first election, the board of elections shall conduct a recount and declare the results. If the recount shows a tie vote, a runoff election between the two shall be held unless one of the

candidates, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections. Should that be done, the remaining candidate shall be declared elected.

- (2) If one candidate receives the highest number of votes cast in a first election, but short of a majority, and there is a tie between two or more of the other candidates receiving the second highest number of votes, the board of elections shall declare the candidate having the highest number of votes to be elected, unless all but one of the tied candidates give written notice of withdrawal to the board of elections within three days after the result of the first election has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a runoff election in accordance with subsection (c) of this section, a runoff election shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.

(e) Runoff elections shall be held on the date fixed in G.S. 163A-1585(a)(4). Persons whose registrations become valid between the date of the first election and the runoff election shall be entitled to vote in the runoff election, but in all other respects the runoff election shall be held under the laws, rules, and regulations provided for the first election.

(f) A second runoff election shall not be held. The candidates receiving the highest number of votes in a runoff election shall be elected. If in a runoff election there is a tie for the highest number of votes between two candidates, the board of elections shall determine the winner by lot. (1971, c. 835, s. 1; 1973, c. 793, s. 90; 1995 (Reg. Sess., 1996), c. 553, s. 3; 2003-278, s. 10(g); 2010-170, s. 15.5(a); 2017-6, s. 3.)

§ 163A-1618. Determination of election results in cities using nonpartisan primaries.

(a) In cities whose elections are nonpartisan and who use the nonpartisan primary and election method, there shall be a primary to narrow the field of candidates to two candidates for each position to be filled if, when the filing period closes, there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary shall be held for that office and the candidates shall be declared nominated. If the number of candidates for a group of offices does not exceed twice the number of positions to be filled, no primary shall be held for those offices and the candidates shall be declared nominated.

(b) In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. In both the primary and election, a voter should not mark more names for any office than there are positions to be filled by election. If two or more candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the seventh day following the primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

(c) In the election, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate for a single office receiving the highest number of votes shall be elected. Those candidates for a group

of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be elected. If two candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine the winner by lot. (1971, c. 835, s. 1; 1991, c. 341, s. 1; 1995 (Reg. Sess., 1996), c. 553, s. 4; 2001-460, s. 6; 2003-278, s. 10(h); 2017-6, s. 3.)

§ 163A-1619. Death of candidates or elected officers.

(a) This section shall apply only to municipal and special district elections.

(b) If a candidate for political party nomination for office dies, becomes disqualified, or withdraws before the primary but after the ballots have been printed, the provisions of G.S. 163A-985 shall govern.

If a candidate for nomination in a nonpartisan municipal primary dies, becomes disqualified, or withdraws before the primary but after the ballots have been printed, the board of elections shall determine whether or not there is time to reprint the ballots. If the board determines that there is not enough time to reprint the ballots, the deceased or disqualified candidate's name shall remain on the ballots. If he receives enough votes for nomination, such votes shall be disregarded and the candidate receiving the next highest number of votes below the number necessary for nomination shall be declared nominated. If the death or disqualification of the candidate leaves only two candidates for each office to be filled, the nonpartisan primary shall not be held and all candidates shall be declared nominees.

If a nominee for political party nomination dies, becomes disqualified, or withdraws after the primary and before election day, the provisions of G.S. 163A-987 shall govern.

If a candidate in a nonpartisan election dies, becomes disqualified, or withdraws before election day and after the ballots have been printed, the board of elections shall determine whether there is enough time to reprint the ballots. If there is not enough time to reprint the ballots, and should the deceased or disqualified candidate receive enough votes to be elected, the board of elections shall declare the office vacant, and it shall be filled as provided by law.

(c) If a person elected to any city office dies, becomes disqualified, or resigns on or after election day and before he has qualified by taking the oath of office, the office shall be deemed vacant, and shall be filled as provided by law.

(d) A vacancy that occurs in a municipal or special district elective office shall be filled by the governing body as provided in G.S. 160A-63. In the case of a special district, the words "city council" as used in G.S. 160A-63, shall mean the governing body of the special district. (1971, c. 835, s. 1; 1985, c. 619; 2017-6, s. 3.)

§ 163A-1620. Notice of candidacy and filing fee in nonpartisan municipal elections.

(a) Each person offering himself as a candidate for election to any municipal office in municipalities whose elections are nonpartisan shall do so by filing a notice of candidacy with the board of elections in the following form, inserting the words in parentheses when appropriate:

"Date _____;

I hereby file notice that I am a candidate for election to the office of
_____ (at large) (for the _____ Ward) in the regular municipal
election to be held in _____ on _____, _____

(municipality)

Signed _____

Witness: _____

For the Board of Elections"

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the board of elections or the director of elections of that county, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the board of elections. The candidate shall sign the notice of candidacy with his legal name and, in his discretion, any nickname by which he is commonly known, in the form that he wishes it to appear upon the ballot but substantially as follows: "Richard D. (Dick) Roc." A candidate may also, in lieu of his legal first name and legal middle initial or middle name (if any) sign his nickname, provided that he appends to the notice of candidacy an affidavit that he has been commonly known by that nickname for at least five years prior to the date of making the affidavit, and notwithstanding the previous sentence, if the candidate has used his nickname in lieu of first and middle names as permitted by this sentence, unless another candidate for the same office who files a notice of candidacy has the same last name, the nickname shall be printed on the ballot immediately before the candidate's surname but shall not be enclosed by parentheses. If another candidate for the same office who filed a notice of candidacy has the same last name, then the candidate's name shall be printed on the ballot in accordance with the next sentence of this subsection. The candidate shall also include with the affidavit the way his name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

(b) Only persons who are registered to vote in the municipality shall be permitted to file notice of candidacy for election to municipal office. The board of elections shall inspect the voter registration lists immediately upon receipt of the notice of candidacy and shall cancel the notice of candidacy of any candidate who is not eligible to vote in the election. The board shall give notice of cancellation to any candidate whose notice of candidacy has been cancelled under this subsection by mail or by having the notice served on him by the county sheriff.

(c) Candidates seeking municipal office shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the third Friday in July preceding the election, except:

- (1) In the year following a federal decennial census, candidates seeking municipal office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and
- (2) In the second year following a federal decennial census, if the election is held then under G.S. 160A-23.1, candidates seeking municipal office shall file their notices of candidacy with the board of elections at the same time as notices of candidacy for county officers are required to be filed under G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and 163A-978.

Notices of candidacy which are mailed must be received by the board of elections before the filing deadline regardless of the time they were deposited in the mails.

(d) Any person may withdraw his notice of candidacy at any time prior to the close of business on the third business day prior to the filing deadline prescribed in subsection (c), and shall be entitled to a refund of his filing fee if he does so.

(e) The filing fee for the primary or election shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

(f) No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for the election unless the notice of candidacy for the first office is withdrawn first. (1971, c. 835, s. 1; 1973, c. 870, s. 2; 1975, c. 370, s. 2; 1977, c. 265, s. 18; 1981, c. 32, s. 3; 1983, c. 330, s. 3; c. 644, ss. 1, 2; 1985, c. 472, s. 5; c. 558, s. 3; c. 599, s. 1; 1989 (Reg. Sess., 1990), c. 1012, s. 4; 1995, c. 243, s. 1; 1999-227, s. 6; 1999-456, s. 59; 2006-192, s. 5; 2009-414, s. 3; 2013-381, s. 21.2; 2017-6, s. 3.)

§ 163A-1621. Sole candidates to be voted upon in nonpartisan municipal elections.

Each candidate for municipal office in nonpartisan municipal elections shall be voted upon, even though only one candidate has filed or has been nominated for a given office, in order that the voters may have the opportunity to cast write-in votes under the general election laws. (1971, c. 835, s. 1; 2017-6, s. 3.)

§ 163A-1622. Failure of candidates to file; death of a candidate before election.

(a) If in a nonpartisan municipal election, when the filing period expires, candidates have not filed for all offices to be filled, the board of elections may extend the filing period for five days.

(b) If at the time the filing period closes only two persons have filed notice of candidacy for election to a single office or only as many persons have filed notices of candidacy for group offices as there are offices to be filled, and thereafter one of the candidates dies before the election and before the ballots are printed, the board of elections shall, upon notification of the death, immediately reopen the filing period for an additional five days during which time additional candidates shall be permitted to file for election. If the ballots have been printed at the time the board of elections receives notice of the candidate's death, the board shall determine whether there will be sufficient time to reprint them before the election if the filing period is reopened for three days. If the board determines that there will be sufficient time to reprint the ballots, it shall reopen the filing period for three days to allow other candidates to file for election.

(c) If the ballots have been printed at the time the board of elections receives notice of a candidate's death, and if the board determines that there is not enough time to reprint the ballots before the election if the filing period is reopened for three days, then, regardless of the number of candidates remaining for the office, the ballots shall not be reprinted and the name of the deceased candidate shall remain on the ballots. If a deceased candidate should poll the highest number of votes in the election, even though short of a majority the board of elections shall declare the office vacant and it shall be filled in the manner provided by law. If no candidate in an election receives a majority of the votes cast and the second highest vote is cast for a deceased candidate, no runoff election shall be held, but the board of elections shall declare the candidate receiving the highest vote to be elected. (1971, c. 835, s. 1; 2017-6, s. 3.)

§ 163A-1623. Municipal and special district elections; application of this Subchapter 163.

To the extent that the laws, rules and procedures applicable to the conduct of primary, general or special elections by county boards of elections under Parts 1, 2, and 4 of Article 16, Parts 1, and 2 and 3 of Article 17, Articles 18 and 19, Parts 1 and 8 of Article 20 and Article 22 of this Chapter are not inconsistent with the provisions of this Part, those laws, rules and procedures shall apply to municipal and special district elections and their conduct by the board of elections conducting those elections. The State Board shall have the same authority over all such elections as it has over county and State elections under those Parts and Articles. (1971, c. 835, s. 1; 1973, c. 793, s. 91; 1993 (Reg. Sess., 1994), c. 762, s. 68; 2006-155, s. 5; 2017-6, s. 3.)

§ 163A-1624. Nomination by petition.

In cities conducting partisan elections, any qualified voter who seeks to have his name printed on the regular municipal election ballot as an unaffiliated candidate may do so in the manner provided in G.S. 163A-1005, except that the petitions and affidavits shall be filed not later than 12:00 noon on the Friday preceding the seventh Saturday before the election, and the petitions shall be signed by a number of qualified voters of the municipality equal to at least one and a half percent (1.5%) of the whole number of voters qualified to vote in the municipal election according to the voter registration records of the State Board as of January 1 of the year in which the general municipal election is held. A person whose name appeared on the ballot in a primary election is not eligible to have his name placed on the regular municipal election ballot as an unaffiliated candidate for the same office in that year. The Board of Elections shall examine and verify the signatures on the petition, and shall certify only the names of signers who are found to be qualified registered voters in the municipality. Provided that in the case where a qualified voter seeks to have his name printed on the regular municipal election ballot as an unaffiliated candidate for election from an election district within the municipality, the petition shall be signed by one and a half percent (1.5%) of the voters qualified to vote for that office. (1971, c. 835, s. 1; 1979, c. 23, ss. 2, 4, 5; c. 534, ss. 3, 4; 1989, c. 402; 1991, c. 297, s. 2; 2004-127, s. 8(b); 2006-264, s. 21; 2017-6, s. 3; 2017-214, s. 2(b).)

§ 163A-1625. Structure at voting place; marking off limits of voting place.

Precincts in which municipal primaries and elections are conducted shall conform, in all regards, to the requirements stipulated in G.S. 163A-1046 and all other provisions contained in this Subchapter relating to county and State elections. (1971, c. 835, s. 1; 2017-6, s. 3.)

§ 163A-1626. Municipal primaries and elections.

The phrases "county board of elections," and "chairman of the board of elections" as used in this Part, with respect to all municipal primaries and elections, shall mean the county board of elections and its chairman in all municipalities. The words "general election," as used in this Part, shall include regular municipal elections, runoff elections, and nonpartisan primaries, except where specific provision is made for municipal elections and nonpartisan primaries. (1971, c. 835, s. 1; 2011-31, s. 21; 2017-6, s. 3.)

§ 163A-1627. Ballots; municipal primaries and elections.

(a) The ballots printed for use in general and special elections under the provisions of this Part shall contain:

- (1) The names of all candidates who have been put in nomination in accordance with the provisions of this Subchapter by any political party recognized in this State, or, in nonpartisan municipal elections, the names of all candidates who have filed notices of candidacy or who have been nominated in a nonpartisan primary.
 - (2) The names of all persons who have qualified as unaffiliated candidates under the provisions of G.S. 163A-1624.
 - (3) All questions, issues and propositions to be voted on by the people.
- (b) The form of municipal ballots to be used in partisan municipal elections shall be the same as the form prescribed in this Subchapter for the county ballot.
- (c) The names of candidates for nomination or election in municipal primaries or elections shall be placed on the ballot in strict alphabetical order, unless the municipal governing body has adopted a resolution no later than 60 days prior to a primary or election requesting that candidates' names be rotated on ballots. In the event such a resolution has been adopted, then the board of elections responsible for printing the ballots shall have them printed so that the name of each candidate shall, as far as practicable, occupy alternate positions on the ballot; to that end the name of each candidate shall occupy with reference to the name of every other candidate for the same office, first position, second position and every other position, if any, upon an equal number of ballots, and the ballots shall be distributed among the precinct voting places impartially and without discrimination.
- (d) The provisions of Parts 3 and 4 of Article 20 of this Chapter shall apply to ballots used in municipal primaries and elections in the same manner as it is applied to county ballots.
- (e) The rules contained in G.S. 163A-1166 and G.S. 163A-1169 for counting primary ballots shall be followed in counting ballots in municipal primaries and nonpartisan primaries.
- (f) The requirements contained in G.S. 163A-1169(b) shall apply to all municipal elections.
- (g) The county board of elections shall, in addition to the requirements contained in G.S. 163A-1172 canvass the results in a nonpartisan municipal primary, election or runoff election, and in a special district election, the number of legal votes cast in each precinct for each candidate, the name of each person voted for, and the total number of votes cast in the municipality or special district for each person for each different office. (1971, c. 835, s. 1; 1979, c. 534, s. 4; c. 806; 2001-398, ss. 10 – 12; 2001-460, ss. 7, 8; 2004-127, s. 5; 2011-31, s. 22; 2017-6, s. 3.)

§ 163A-1628. Disposition of duplicate abstracts in municipal elections.

Within nine days after a primary or election is held in any municipality, the chairman of the county board of elections shall mail to the chairman of the State Board, the duplicate abstract prepared in accordance with G.S. 163A-1173. One copy shall be retained by the county board of elections as a permanent record and one copy shall be filed with the city clerk. (1971, c. 835, s. 1; 2001-398, s. 13; 2003-278, s. 10(i); 2011-31, s. 23; 2017-6, s. 3.)

§ 163A-1629. Chairman of election board to furnish certificate of elections.

Not earlier than five days nor later than 10 days after the results of any municipal election have been officially determined and published in accordance with G.S. 163A-1172, the chairman of the county board of elections shall issue certificates of election, under the hand and seal of the chairman, to all municipal and special district officers. In issuing such certificates of election the

chairman shall be restricted by the provisions of G.S. 163A-1183. (1971, c. 835, s. 1; 2001-398, s. 14; 2011-31, s. 24; 2017-6, s. 3.)

§ 163A-1630. Absentee voting.

(a) In any municipal election, including a primary or general election or referendum, absentee voting may, upon resolution of the municipal governing body, be permitted. Such resolution must be adopted no later than 60 days prior to an election in order to be effective for that election. Any such resolution shall remain effective for all future elections unless repealed no later than 60 days before an election. A copy of all resolutions adopted under this section shall be filed with the State Board and the county board of elections conducting the election within 10 days of passage in order to be effective. In addition, absentee voting shall be allowed in any referendum on incorporation of a municipality.

(b) The provisions of Part 1 of Article 21 of this Chapter shall apply to absentee voting in municipal elections, special district elections, and other elections for an area less than an entire county other than elections for the General Assembly, except that the earliest date by which absentee ballots shall be required to be available for absentee voting in such elections shall be 30 days prior to the primary or election or as quickly following the filing deadline specified in G.S. 163A-1615(2) or G.S. 163A-1620(c) as the county board of elections is able to secure the official ballots. In elections on incorporation of a municipality not held at the same time as another election in the same area, the county board of elections shall adopt a special schedule of meetings of the county board of elections to approve absentee ballot applications so as to reduce the cost of the process, and to further implement the last paragraph of G.S. 163-230(2)a. If no application has been received since the last meeting, no meeting shall be held of the county board of elections under such schedule unless the meeting is scheduled for another purpose. If another election is being held in the same area on the same day, or elsewhere in the county, the cost of per diem for meetings of the county board of elections to approve absentee ballots shall not be considered a cost of the election to be billed to the municipality being created. (1971, c. 835, s. 1; 1975, c. 370, s. 1; c. 836; 1977, c. 475, s. 1; 1983, c. 324, s. 6; 1991 (Reg. Sess., 1992), c. 933, s. 1; 2014-111, s. 10; 2017-6, s. 3.)

§ 163A-1631. State Board to have jurisdiction over municipal elections, and to advise; emergency and ongoing administration by county board.

Authority and Duty of State Board. – The State Board shall have the same authority over municipal elections as it has over county and State elections. The State Board shall advise and assist cities, towns, incorporated villages and special districts, their members and legal officers on the conduct and administration of their elections and registration procedure.

The county boards of elections shall be governed by the same rules for settling controversies with respect to counting ballots or certification of the returns of the vote in any municipal or special district election as are in effect for settling such controversies in county and State elections. (1971, c. 835, s. 1; 1973, c. 793, s. 92; 1999-426, s. 6(a); 2001-319, s. 11; 2001-374, s. 3; 2011-31, s. 25; 2012-194, s. 22(b); 2017-6, s. 3.)

§ 163A-1632. Validation of elections.

All elections, and the results thereof, previously held in and for any municipality, special district, or school administrative unit pursuant to this Article, are hereby validated. (1973, c. 492, s. 1; 2017-6, s. 3.)

§ 163A-1633. Assumption of office by mayors and councilmen.

Newly elected mayors and councilmen (members of the governing body) shall take office as prescribed by G.S. 160A-68. (1973, c. 866; 2017-6, s. 3.)